

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

CARL CZERNIEJEWSKI,  
Plaintiff,

v.

ORDER  
07-CV-476A

MICHAEL J. ASTRUE, et al.,  
Defendant.

---

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 28, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion for judgment on the pleadings be denied and that plaintiff's cross-motion be granted in part and denied in part.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and plaintiff's cross-motion for judgment on the pleadings is granted in part and denied in part.

In accordance with Magistrate Judge McCarthy's Report and Recommendation, the case is remanded to the Commissioner for further proceedings. The Clerk of Court is directed to take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA

CHIEF JUDGE

UNITED STATES DISTRICT COURT

DATED: September 19, 2008